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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,654	12/13/2006	Roderich Ettlinger	7400-X06-147	8839
27317 7590 03/10/2010 Fleit Gibbons Gutman Bongini & Bianco PL 21355 EAST DIXIE HIGHWAY SUITE 115 MIAMI, FL 33180				
EXAMINER				
CECIL, TERRY K				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
03/10/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/596,654

**Applicant(s)**

ETTLINGER, RODERICH

**Examiner**

Mr. Terry K. Cecil

**Art Unit**

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 July 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-15 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 6-20-2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-852)  
Paper No(s)/Mail Date 06/23/2006; 06/25/2007; 07/09/2008  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following:
  - Page 2, line 3, refers to claim 1. Since claims are dynamic changing throughout prosecution, the specification should not refer to specific claim numbers.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are indefinite because of the following reasons:
  - In claim 1, because of the presence of two transitional terms, e.g. “with” (line 2) and “characterized in that” (line 7), it is unclear where the preamble ends and the body of the claim begins.
  - The following terms lack antecedent basis: “the filter body” (claim 1, lines 5 and 8); “the rotating motor-driven filter” and “the spiral conveyor” (claim 14); and “the spiral conveyor” (claim 15).
  - The balance of the claims are rejected since they suffer the same defects as the claims from which they depend.

***Claim Rejections - 35 USC § 103***

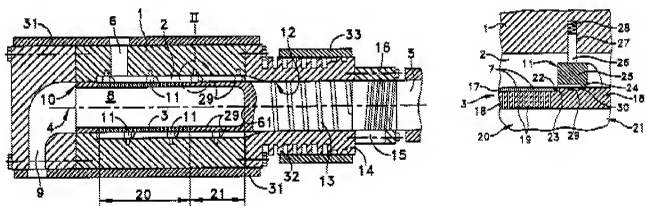
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

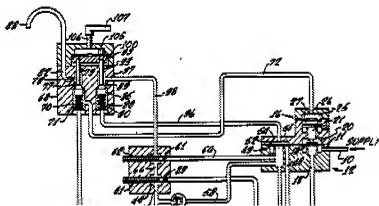
5. Claims 1, 4-5 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bacher et al. (U.S. 6,378,705) in view of Paquette (U.S. 4,159,953).



Bacher teaches a device for continuously filtering material mixtures comprising a hollow cylinder 3 rotatable about a center axis 4 by a motor and including a stripper 11 and contact means 26, 28 applying pressure to the strippers 11. Bacher also teaches that the springs 28 can

be augmented or replaced by pressure of the incoming feed material exerted radially from the outside on the scraper element 25 [as in claims 1 and 9]. Bacher doesn't specify the contact means to include a pressure sensor connected to an actuator. However, Paquette teaches a pressure transducer 94 for sensing the material pressure [as in claim 7] connected to a hydraulic cylinder 13 including a piston via control electronics 92 and a pressure control valve (the pump P acts as a valve allowing/stopping fluid flow) [as in claims 1, 4, 5 and 8]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the piston bolt 26 of Bacher controlled by the pressure sensing control system Paquette, since Paquette teaches the benefit of applying a force to a rod in response to a material pressure.

6. Claim 1-6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bacher in view of Tyler (U.S. 4,021,343). Bacher was expanded above but doesn't specify the means for using the pressure of the feed for adjusting pressure of the stripper. However, Tyler teaches

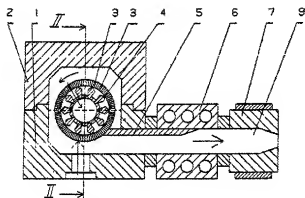


such a system including a hydraulic cylinder 16 including the claimed piston and piston bolt connected by a hydraulic line 72 to use the pressure of the supply line to move a piston 73 [as in claims

1-6 and 9]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the hydraulic pressure sensing system of Tyler in to apply

pressure to the strippers of Bacher since such would provide the means to apply feed pressure desired by Bacher.

7. Claims 1-6, 9-11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over AT 410759 B, hereinafter '759 in view of Bacher in view of Tyler and claims 1, 4-5 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the abstract and drawing of AT 200101705 A, hereinafter '759 in view of Bacher in view of Paquette.



'759 teaches a device including a cylindrical filter element 3 rotating within a housing and a stripper 5 having an edge arrange diagonal to the filter element and at a contact angle relative to the central plane of the filter [as in claims 10-11]. '759 doesn't specify the

contact device for the stripper but shown above both Bacher in view of Tyler and Bacher in view of Paquette teaches a means for applying pressure to the stripper in response to the pressure of the material feed. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the pressure sensing and hydraulic piston of the modified Bacher attached to the rod of the stripper 5 of '759 since such would provide the benefit of providing the necessary force to the stripper for effective cleaning of the filtering element. Reasons for modifying the combination with either of Tyler or Paquette was given above. As for claims 13-15, the extraction line 9 includes a screw conveyor in the vicinity of the stripper and

because of the heating/cooling/valve means 6 and 7 can be controlled at a different rpm such that it would have been obvious for the filter and screw to be driven separately.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over '759 as modified above and in further view of Bacher et al. (U.S. 6,607,299). Bacher teaches an angle-adjustable scraper 26. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the stripper (scraper) of '705 to be angle-adjustable as in Bacher '299, since Bacher '299 teaches the benefit of enabling one to adapt the position of the scraper to manufacturing tolerances and to wear occurring during operation (col. 2, lines 60+).

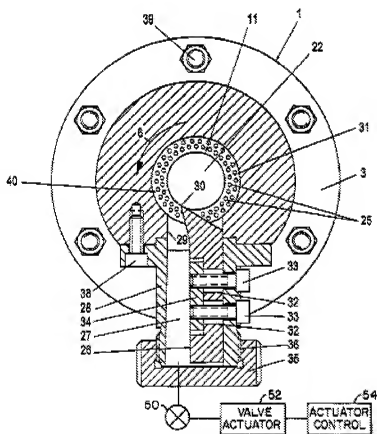


FIG. 2

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Terry K. Cecil whose telephone number is (571) 272-1138. The examiner can normally be reached on 8:00a-4:30p M-F..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mr. Terry K. Cecil/  
Primary Examiner, Art Unit 1797

tkc